



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 11 2005

REPLY TO THE ATTENTION OF
(AE-17J) .

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

S. Mark Curwin, Esq.
Corporate Secretary - Vector Pipeline, L.P.
119 North 25th Street East
Superior, WI 54880-5247

Dear Mr. Curwin:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Vector Pipeline L.P. (Vector), CAA Docket No. ~~CAA-05-2005-0014~~. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB 11 2005.

Pursuant to paragraph 42 of the CAFO, Vector must pay the civil penalty within 30 days of FEB 11 2005. Your check must display the case docket number, ~~CAA-05-2005-0014~~, and the billing document number, 050303077.

Please direct any questions regarding this case to Cynthia A. King, Associate Regional Counsel, (312) 886-6831.

Sincerely yours,

Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:) Docket No. ~~CRA-05~~ 2005 0014
)
Vector Pipeline, L.P.)
Highland, Michigan and)
Springville, Indiana)
) Consent Agreement and
) Final Order
Respondent.) ~~CRA-05~~ 2005 0014
_____)

CONSENT AGREEMENT AND FINAL ORDER

Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois, and Respondent, Vector Pipeline, L.P. (Respondent or Vector), wish to settle all matters pertaining to this case and have consented to the entry of this Consent Agreement and Final Order (CAFO).

I. JURISDICTION

1. This is a civil administrative action instituted pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.34 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (the Consolidated Rules).

2. Section 22.13(b) of the Consolidated Rules provides that where the parties agree to settlement of one or more causes

of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a CAFO.

3. Complainant is, by lawful delegation, the Director of the Air and Radiation Division, U.S. EPA, Region 5.

4. Respondent is Vector Pipeline L.P., which is and was at all times relevant to this CAFO, a limited partnership operating under the laws of the State of Michigan and the State of Indiana, with places of business at 2282 South Duck Lake Road, Highland, Michigan 48356 (the Michigan Facility), and at the Intersection of Indiana Toll Road and Fail Road, LaPorte, Indiana, 46350 (the Indiana or Springville Facility).

5. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

6. The Administrator may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for violations of the Act that occurred between January 31, 1997 and March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred on and after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended at 69 Fed. Reg. 7121 (February 13, 2004).

III. SELF-DISCLOSURE POLICY

7. In order to encourage regulated entities to conduct voluntary compliance evaluations and to voluntarily discover, disclose and correct violations of environmental requirements, U.S. EPA promulgated the "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations," 60 Fed. Reg. 66706 (December 22, 1995) (the Self-Disclosure Policy). As an incentive for regulated entities to participate in the Self-Disclosure Policy's voluntary disclosure process, U.S. EPA may eliminate or substantially reduce the gravity-based component of civil penalties to be assessed for violations which are voluntarily disclosed in compliance with the conditions specified in the Self-Disclosure Policy. The conditions of the Self-Disclosure Policy are as follows:

- (1) Discovery of the violation(s) through an environmental audit or due diligence;
- (2) Voluntary disclosure;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third party plaintiff;
- (5) Correction and remediation;
- (6) Prevention of recurrence of the violation;
- (7) Absence of repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation.

8. Pursuant to the Self-Disclosure Policy, U.S. EPA may reduce gravity-based penalties up to one-hundred percent if the disclosing entity satisfies all of the conditions listed above.

U.S. EPA may reduce gravity-based penalties up to seventy-five percent if the disclosing entity satisfies conditions (2) - (9), above. However, U.S. EPA reserves the right to assess a civil penalty with regard to any economic benefit that may have been realized as a result of such violations, even in those instances when the disclosing entity has met all the conditions of the Self-Disclosure Policy. In its enforcement discretion, U.S. EPA may waive a civil penalty with regard to the economic benefit arising from such violations if U.S. EPA determines that such economic benefit is insignificant. Penalty reductions are not available under the Self-Disclosure Policy for violations that result in serious actual harm or may present an imminent and substantial endangerment to public health or the environment, nor are such reductions available for violations of any order or consent agreement.

IV. FACTS

9. Vector owns and operates a natural gas pipeline that commences near Joliet, Illinois, passes through the northwestern portion of Indiana, and continues diagonally across Michigan.

10. As part of the pipeline, there are two compressor stations, one in Highland, Michigan and one in Springville, Indiana. Each compressor station has two natural gas-fired turbine driven compressors which are equipped with an internal emissions control feature known as SoLoNox. SoLoNox controls

carbon monoxide (CO) and nitrogen oxides (NOx) emissions when the turbines are operating at natural gas producer (NGP) speeds equal to or greater than 95%.

11. Pursuant to requirements in its Michigan Renewable Operating Permit No. MI-ROP-N6838-2003, Vector conducted compliance testing at its Michigan Facility for NOx and CO from February 25-27, 2004.

12. Preliminary field results from the February 25-27, 2004 testing indicated that during NGP speeds of less than 95%, CO emissions significantly exceeded the 50 ppm CO emission limit in the Michigan Renewable Operating Permit. Vector was also concerned that CO emissions at this level could trigger the Prevention of Significant Deterioration (PSD) requirements at 40 C.F.R. Part 52.

13. Based on the preliminary results from the February 25-27, 2004 testing, Vector determined that the excess CO emissions occurred at load levels that were below the effective operating range of SoLoNox.

14. Initially, to prevent further excess CO emissions, Vector determined that it would not operate at less than 95% NGP as that was within the SoLoNox operating range. In April, Vector also met with the manufacturer of the SoLoNox feature who lowered the effective operating range of SoLoNox so that it would operate at lower engine speeds of approximately 91-92% NGP speed. In

addition, Vector installed alarms that indicate when the 95% NGP speed level has been triggered.

15. On April 14, 2004, Vector met with the Michigan Department of Environmental Quality (MDEQ) to discuss the potential violations as well as the compliance steps it had taken.

16. On May 13, 2004, Vector notified U.S. EPA regarding potential violations of the CO emission limit requirements of its Michigan Renewable Operating Permit No. MI-ROP-N6838-2003 at the Michigan Facility.

17. On June 15, 2004, the MDEQ issued a Letter of Violation to Vector alleging that Vector violated the CO emission limits in Michigan Renewable Operating Permit No. MI-ROP-N-6838-2003, constructed a PSD major stationary source without an appropriate permit, and submitted a certified ROP/PTI permit application that did not accurately reflect potential CO emissions at the Michigan Facility.

18. Because the compressor stations are similar, once Vector learned of the SoLoNox issue at the Michigan Facility, Vector ordered that the Indiana Facility not operate at less than 95% NGP speed. In addition, the SoLoNox operating range was lowered so that it would operate at lower engine speeds of approximately 91-92% NGP speed. Vector also installed alarms at the Indiana Facility that indicate when the 95% NGP speed level

has been triggered.

19. Vector was not required to test for CO emissions at the Indiana Facility and there were no CO emission limits in the Indiana permit. However, based on the CO emissions at the Michigan Facility, Vector assumed that the CO emissions from the Indiana Facility were likely to be similar when the engine speed fell below 95% NGP SoLoNox range and Vector was concerned that CO emissions at this level could trigger the PSD requirements at 40 C.F.R. Part 52.

20. On May 7, 2004, Vector notified the Indiana Department of Environmental Management (IDEM) of the potential violations at the Indiana Facility.

21. On May, 10, 2004, Vector provided initial notification to the U.S. EPA regarding potential violations at both facilities.

22. On May 12, 2004, Vector provided written notification to U.S. EPA and IDEM of the possible violations at the Indiana Facility.

23. On June 1, 2004, U.S. EPA met with Vector to discuss the potential violations at the Michigan Facility and the self-disclosure of possible violations at the Indiana Facility.

24. Following the June 1, 2004, meeting, U.S. EPA received an updated self-disclosure notification dated June 10, 2004 from Vector outlining the steps taken to resolve the potential

violations at the Indiana Facility.

25. Testing at the Indiana Facility took place on June 2-3, 2004. Testing demonstrated high levels of CO emissions when the engine speed fell below the SoLoNox range.

26. The Self-Disclosure Policy is only applicable to the violations disclosed at the Indiana Facility.

27. For the Indiana Facility, Vector provided information to U.S. EPA that its disclosed violations were discovered as the result of due diligence through a compliance management system.

28. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the violations were disclosed promptly and in writing within 10 days of discovery.

29. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the disclosed violations were identified and disclosed by Vector prior to the commencement of a Federal, state, or local agency inspection, investigation, or information request, notice of a citizen suit, legal complaint by a third party, reporting of the violation to U.S. EPA by a "whistle blower" employee, or imminent discovery by a regulatory agency.

30. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the disclosed violations either have been promptly corrected or Vector has taken steps to correct the violations and is working with state and local air agencies to

expeditiously return to compliance.

31. For the Indiana Facility, Vector provided information to U.S. EPA indicating that Vector has taken steps to prevent a recurrence of the violations, including changes to the operating range of the SoLoNox feature and installing alarms that indicate when the engine speed comes close to dropping below the SoLoNox range.

32. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the violations at issue or closely related violations have not occurred previously within the past three years at the same facility and are not part of a pattern of violations on the part of Vector over the past five years.

33. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the violations at the Indiana Facility have not been the subject of a Federal, state or local agency judicial or administrative complaint, enforcement action or settlement, nor has Vector or a parent organization received a penalty mitigation concerning the violations at issue during the three years preceding the issuance of this CAFO.

34. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the violations at issue have not resulted in serious actual harm to human health or the environment, nor have the violations presented an imminent and substantial endangerment to public health or the environment.

35. For the Indiana Facility, Vector provided information to U.S. EPA indicating that the violations at issue do not violate the specific terms of any judicial or administrative order or consent agreement.

36. Vector has cooperated with U.S. EPA and provided the information necessary for the Agency to determine the applicability of the Self-Disclosure Policy to Vector's disclosure.

37. In terms of both the Michigan Facility and the Indiana Facility, Vector applied to MDEQ and the IDEM, respectively, for amended permits to ensure compliance with the CO emission limits and the PSD regulations. The revised Permit to Install for the Michigan Facility was issued on December 20, 2004.

V. VIOLATIONS

38. Vector violated the CO emission limits in its Michigan Renewable Operating Permit No. MI-ROP-N6838-2003 and violated the PSD regulations at its Michigan Facility.

39. Pursuant to the Self-Disclosure Policy, and based upon the information provided by Vector, U.S. EPA determines that Vector violated the PSD regulations at its Indiana Facility.

VI. PROPOSED PENALTY

40. Pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e), in determining the amount of the penalty assessed, U.S. EPA took into account (in addition to such other factors as justice may require), the size of Vector's business, the economic

impact of the penalty on Vector's business, Vector's full compliance history and good faith efforts to comply, the duration of the violations, the economic benefit of noncompliance, and the seriousness of the violations. Based on an analysis of the above factors, including, Vector's cooperation, for the Michigan Facility, U.S. EPA has determined that an appropriate civil penalty to settle this action is Sixty-Nine Thousand and Three Hundred Dollars (\$69,300).

41. Because Vector provided information to U.S. EPA that its disclosed violations at its Indiana Facility were discovered through an audit or compliance management system and has met all other conditions of the Self-Disclosure Policy, the gravity-based penalty is being reduced to \$0. The collection of an economic benefit-based civil penalty is being waived as U.S. EPA determines that the economic benefit-based penalty would be insignificant. Therefore, the total penalty for the Indiana Facility is \$0.

42. Vector must pay the \$69,300 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America" within thirty (30) calendar days after this CAFO is filed with the Regional Hearing Clerk, U.S. EPA, Region 5.

43. Vector must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

44. A transmittal letter, stating Respondent's name,

complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Cynthia A. King, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

45. This civil penalty is not deductible for federal tax purposes.

46. If Vector does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

47. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C.

§ 3717. Vector will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Vector will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

VIII. OPPORTUNITY TO REQUEST A HEARING

48. In accordance with the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. and the Consolidated Rules, by signing this CAFO, you will waive your right to request a hearing regarding the allegations contained in this CAFO, to contest any material fact contained in this CAFO, and/or to contest the appropriateness of the amount of the proposed penalty.

49. To request a hearing, Vector must notify U.S. EPA of its intention to not enter into this agreement. U.S. EPA will then issue an administrative complaint under the Consolidated Rules. Vector will then have the opportunity to specifically make the request for a hearing in a written Answer to U.S. EPA's Complaint in accordance with the procedures specified in the Consolidated Rules.

IX. SETTLEMENT PROVISIONS

50. Pursuant to Section 113(d) of the CAA, the Self-

Disclosure Policy, and the Consolidated Rules, the U.S. EPA and Vector enter into this CAFO to resolve Vector's violations alleged in Paragraphs 38 and 39.

51. The alleged violations related to the Indiana Facility which are the subject of this CAFO were voluntarily disclosed by Vector to U.S. EPA in correspondence dated May 12, 2004 and June 10, 2004.

52. This CAFO resolves the violations alleged in this CAFO up until the date that this CAFO is filed or until a final decision has been communicated to Vector in writing by the state and local agencies to either grant or deny the permit amendments/modifications requested by Vector, whichever is later.

53. Vector admits that U.S. EPA has jurisdiction over the violations disclosed in this CAFO.

54. Vector neither admits nor denies the specific factual allegations contained in this CAFO and agrees to its terms.

55. Vector hereby waives its right to a judicial or administrative hearing with respect to this CAFO, its right to appeal the proposed final order accompanying the consent agreement, and explicitly waives any and all rights under any provisions of law to challenge the terms and conditions of this CAFO.

56. Nothing in this CAFO shall relieve Vector of its duty

to comply with all applicable provisions of the CAA, and other Federal, state or local laws or statutes, nor shall it restrict U.S. EPA's authority to seek compliance with all applicable provisions of these statutes and other applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.

57. Vector represents that it is duly authorized to execute this CAFO and that the party signing this CAFO on its behalf is duly authorized to bind Vector to the terms of this CAFO.

58. The provisions of this CAFO shall be binding on Vector, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns.

59. Each party shall bear its own costs, fees, including but not limited to attorneys' fees, and disbursements in this action.

60. This CAFO constitutes the entire agreement between the parties.

61. Upon filing, U.S. EPA will transmit a copy of the filed CAFO to Vector.

62. Vector and U.S. EPA agree to issuance of the attached Final Order.

63. By signing this CAFO, Vector certifies, that to its

knowledge, the information provided to U.S. EPA as it pertains to this disclosure, was at the time of submission, true, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information under 18 U.S.C. § 1001.


64. By signing this CAFO, Vector certifies that it has met all of the conditions of U.S. EPA's Self-Disclosure Policy and qualifies for a mitigation of the gravity-based component of the civil penalty for the disclosed violations.

**In the Matter of Vector Pipeline, L.P.
Highland, Michigan
Springville, Indiana**

The foregoing Consent Agreement is hereby Stipulated, Agreed, and Approved for Entry:

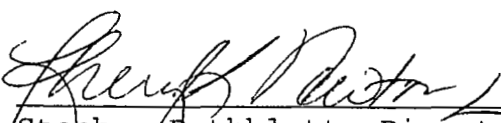
**Vector Pipeline, L.P.
By Vector Pipeline, LLC
As General Partner
Respondent**

Date: 2/1/2005

By: 
Name, Title S. MARK CURWIN
CORPORATE SECRETARY

**U.S. Environmental Protection Agency
Complainant**

Date: 2/9/05

By: 
Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CA-05-2005 0014

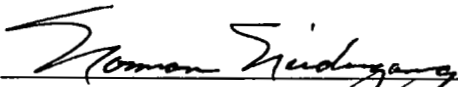
In the Matter of Vector Pipeline, L.P.
Highland, Michigan and Springville, Indiana

~~GPA-05~~ 2005 0014

FINAL ORDER

It is so ORDERED, in the case of Vector Pipeline, L.P., Highland, Michigan and Springville, Indiana, as agreed to by the parties and as stated in the foregoing Joint Civil Administrative Complaint and Consent Agreement. This Final Order disposes of this matter pursuant to 40 C.F.R. § 22.18. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated: 2/10/05


Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of Vector Pipeline
Docket No: ~~OPA-05-2005~~ 0014

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number ~~OPA-05-2005~~ 0014 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Vector Pipeline L.P.'s Counsel by placing them in the custody of the United States Postal Service addressed as follows:

S. Mark Curwin
Contract Counsel - Enbridge (U.S.) Inc.
Corporate Secretary - Vector Pipeline, LLC
119 North 25th Street East
Superior, WI 54880-5247
Holland & Knight LLC

I also certify that a copy of the CAFO was sent by First Class Mail to:

Thomas Hess
Michigan DEQ
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Teresa Seidel, Supervisor
Michigan Department of Environmental Quality
Southeast Michigan District Headquarters
38980 Seven Mile Rd
Livonia, Michigan 48152-1006

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 11th day of February, 2005.



Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8909 7421

